



National Aeronautics and
Space Administration

John C. Stennis Space Center

Stennis Space Center, MS

39529-6000

SPR 2010.1 Rev. A

June 2007

COMPLIANCE IS MANDATORY

John C. Stennis Space Center Alternative Dispute Resolution

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2011	
		Page 2 of 16
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

Document History Log

Status/Change/ Revision	Change Date	Originator/Phone	Description
Basic	5/2/01	Marilyn Donald x2079	Initial Release
SPR 2010.1 Basic -1	10/27/2004	Renay Nelson, x1585	Revalidated per NASA Rules Review
A	2/23/07	Jo Ann Larson x2079	Complete Revision per New Directive Requirements

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
	Page 3 of 16	
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

Table of Contents

PREFACE.....	4
P.1 PURPOSE.....	4
P.2 APPLICABILITY.....	4
P.3 AUTHORITY.....	4
P.4 APPLICABLE DOCUMENTS.....	4
P.5 MEASUREMENT/VERIFICATION	5
P.6 CANCELLATION.....	5
CHAPTER 1. TERMINOLOGY AND RESPONSIBILITIES	6
1.1 Terminology Definition	6
1.2 Responsibilities.....	6
CHAPTER 2. PROCEDURAL REQUIREMENTS.....	8
2.1 General.....	8
2.2 ADR Counseling Stage and Agreement to Participate	8
2.3 Agreement to Mediation	8
2.4 Settlement	9
2.5 Non-Resolution.....	9
2.6 Confidentiality	9
2.7 Criteria for Case Selection	9
2.8 ADR Program Evaluation.....	10
2.9 Records	10
APPENDIX A – ACRONYMS	11
APPENDIX B – ADR PROGRAM ELECTION STATEMENT SAMPLE	12
APPENDIX C – ADR PROGRAM AGREEMENT TO MEDIATE STATEMENT SAMPLE.....	13
APPENDIX D – ADR PROGRAM SETTLEMENT STATEMENT SAMPLE	14

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Page 4 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

PREFACE

P.1 PURPOSE

- a. The purpose of this directive is to prescribe the procedural requirements for Stennis Space Center's (SSC) Alternative Dispute Resolution (ADR) Program for the informal (pre-complaint) stage of the Equal Opportunity (EO) discrimination complaint process.
- b. The SSC ADR Program is a voluntary mediation process designed to resolve allegations of workplace discrimination through the facilitation of a neutral third party.
- c. The ADR Program is intended to provide an impartial and independent forum for the parties to discuss the dispute and develop a realistic assessment of their own as well as the other party's position and alternatives.
- d. SSC's ADR process is designed to ensure fairness for all parties, enforceability of agreements, and adherence to the Equal Employment Opportunity Commission (EEOC) core principles as outlined in EEOC Management Directive (MD) 110. The overall objectives of the ADR Program are to promote open communication between disputing parties, reduce costs, and resolve allegation at the lowest possible organizational level at the earliest opportunity.

P.2 APPLICABILITY

This directive applies to all NASA SSC employees.

P.3 AUTHORITY

- a. The Civil Rights Act of 1991, Public Law 102-166.
- b. Administrative Dispute Resolution Act of 1996, as amended; Section 571 – 584.
- c. Equal Employment Opportunity Regulations, as amended, 29 CFR, Part 1614.
- d. NPD 2010.2, Alternative Dispute Resolution.

P.4 APPLICABLE DOCUMENTS

All citations are assumed to be the latest unless otherwise stated.

- a. Equal Employment Opportunity Regulations, as amended, 29 CFR, Part 1614.
- b. NPD 3713.6, Delegation of Authority - To Act in Matters Pertaining to Discrimination Complaints Processing Under 29 CFR, Part 1614.
- c. NPR 3771.1, NASA Grievance System.
- d. EEOC Equal Employment Opportunity Management Directive, EEOC Management Directive 110,

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
	Page 5 of 16	
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

P.5 MEASUREMENT/VERIFICATION

Annual summaries of the number of attempted uses of ADR, including the type of dispute and the results.

P.6 CANCELLATION

SPR 2010.1 Alternative Dispute Resolution dated October 27, 2004

Richard J. Gilbrech, Ph.D.
Director

DISTRIBUTION

Approved for public release via NODIS; distribution is unlimited.

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2011	
Page 6 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

CHAPTER 1. TERMINOLOGY AND RESPONSIBILITIES

1.1 Terminology Definition

For the purposes of this directive, the following terminology is used.

- a. Alternative Dispute Resolution. A process designed to resolve disputes in a manner that avoids the cost, delay, and unpredictability of the traditional adjudicatory process.
- b. Mediation. A dispute resolution process in which a trained, impartial third party helps two or more parties negotiate a consensual and informed resolution to disputes based on allegations of discrimination. Mediation emphasizes problem solving rather than a determination of fault or adversarial procedures.
- c. Aggrieved Individual. The individual who brings a workplace issue to the EO Officer for resolution.
 - a. Responsible Management Official. The individual who has been identified as the manager directly involved in the workplace dispute or issue.

1.2 Responsibilities

1.2.1 EO Counselors

- a. The EO Counselors shall advise aggrieved persons that, where the Center agrees to offer ADR in a particular case, they may elect to participate in the Center's ADR program or continue in the traditional EO counseling process.
- b. The primary source of SSC EO Counselors shall be a designated contract vendor.

1.2.2 EO Officer

- a. The EO Officer shall be responsible for management and administration of the ADR Program.
- b. The EO Officer shall monitor the ADR process to ensure compliance with established policies and timeframes as well as timely implementation of the terms of settlement agreements.

1.2.3 Mediator

- a. The mediator shall be a trained neutral third party.

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Page 7 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

- b. The mediator shall provide guidance and assistance to disputing parties in reaching a resolution agreement that is acceptable, fair, and reasonable.
- c. The Mediator shall convene and preside at mediation sessions, assist the parties in identifying the underlying causes of work-related disputes, and develop options for resolution.
- d. The Mediator shall coordinate in seeking resolutions and crafting the settlement agreement. The Mediator's role is to encourage and assist the parties in deciding whether and how to resolve their disputes and to promote the parties' mutual understanding of each other's positions, interests, and perspectives, in light of their conflict.
- e. The primary source of SSC mediators shall be a designated contract vendor.

1.2.4 Settlement Official

- a. The Center Director shall designate a Settlement Official with authority to participate in matters pertaining to pre-complaint discrimination process. The Settlement Official is authorized to engage in resolution discussions, assist in developing, and to sign settlement agreements that are binding on behalf of SSC.
- b. Settlement Officials shall be senior managers at grade GS-15 or above.
- c. The Settlement Official shall not be the Responsible Management Official or any official closely involved in the case.
- d. The Settlement Official shall consult with appropriate line management, Office of Diversity and Equal Opportunity, the Office of Chief Counsel, and the Office of Human Capital in obtaining a settlement.

1.2.5 EO Officer

- a. The EO Officer shall coordinate the logistics for the mediation sessions; arrange for the Mediator and Settlement Official; maintain a permanent copy of the settlement agreement; ensure appropriate training for ADR Officials in accordance with EEOC's MD 110; and maintain adequate record keeping for annual reporting requirements.
- b. The EO Officer shall be responsible for publicizing and maintaining the overall integrity of the ADR Program.

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2011	
Page 8 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

CHAPTER 2. PROCEDURAL REQUIREMENTS

2.1 General

- a. This ADR process addresses disputes covered by Title VII of the Civil Rights Act of 1964, as amended (race, color, sex, religion, national origin, and reprisal); the Age Discrimination in Employment Act (age over-40); the Rehabilitation Act (physical or mental handicap); and the Equal Pay Act (discrimination on the basis of wages based on sex).
- b. The process shall be voluntary for both the aggrieved individuals and the Center. However, the Center determines if the situation is appropriate for ADR.
- c. Settlements shall be voluntary with no finding of fault on the part of either party.
- d. The aggrieved individual shall be entitled to have a representative during the ADR process.
- e. The total time allocated for the ADR process, including initial counseling, shall not exceed 90 calendar days.
- f. The Center or aggrieved individuals may terminate the ADR process at any time and return to the EEO process.

2.2 ADR Counseling Stage and Agreement to Participate

- a. During the pre-complaint counseling stage of the process, the EO Officer or the EO Counselor shall inform the aggrieved individual of SSC's voluntary ADR Program and offer the option to participate in the ADR process.
- b. If the aggrieved individual elects to participate in the mediation process, the individual shall sign the election and agreement to mediate forms (Appendices B and C).

2.3 Agreement to Mediation

- a. If the aggrieved individual and the Center agree to mediation, EO Officer shall assign a mediator who is acceptable to both parties.
- b. The mediator shall be provided a letter of authority to mediate all aspects of the complaint.
- c. The EO Officer shall also designate a Settlement Official who is not directly involved in the case.

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Page 9 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

d. The EO Officer or EO Counselor shall brief the Settlement Official on the particulars of the allegation prior to mediation.

2.4 Settlement

a. If a settlement is reached during the mediation, the mediator shall reduce the terms of the settlement to writing (See sample in Appendix D).

b. The agreement shall be reviewed by the Chief Counsel's Office for legal sufficiency.

c. The settlement agreement shall be signed by the aggrieved individual, his/her representative, the Settlement Official, and other parties as deemed necessary.

d. In considering resolutions, the Settlement Official shall consult with the EO Officer, Chief Counsel, Human Capital Officer, or other officials as appropriate during the course of the settlement negotiations.

e. Agreements reached through ADR and signed by the appropriate parties shall be binding on the Agency and enforceable under current EEOC regulations.

f. All settlement agreements involving age discrimination shall contain the appropriate settlement provision required by the Older Workers Benefit Protection Act.

2.5 Non-Resolution

a. In the event that the parties are unable to reach a resolution, the aggrieved individual shall be referred back to counseling.

b. The EO Counselor shall issue a notice of final interview and right to file a formal complaint to the aggrieved individual in accordance with 29 CFR Part 1614.

2.6 Confidentiality

All mediation proceedings shall be kept "in confidence" except where such disclosure would be permitted or required by law (see NPD 2010.2, Alternative Dispute Resolution, Section 1.I.)

2.7 Criteria for Case Selection

a. Requests for mediation will be considered on a case-by-case basis.

b. The Center may consider not using ADR in the following circumstances:

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		
Page 10 of 16		

- Need for precedent or certainty
- Evidence of bad faith
- Public policy development – openness/record needed
- Options are dictated or limited by law
- Serious power imbalances exist
- Linkage to existing litigation
- If outcome will have significant effect on individuals not directly involved in the dispute
- ADR is an improper substitute for other required action
- Cases involving allegations of criminal activity
- Repeat filers unless all active cases are presented for settlement

2.8 ADR Program Evaluation

- a. Upon case resolution at the conclusion of the mediation initiative, the parties to the mediation shall be requested to complete an evaluation form.
- b. The information shall be used only in evaluating the overall effectiveness of the Center's ADR Program.

2.9 Records

- a. Since confidentiality considerations shall be maintained throughout the ADR process, no written records of the mediation proceedings shall be maintained.
- b. The EO Officer shall maintain adequate record keeping for annual reporting requirements.
- c. A permanent copy of the settlement agreement shall be maintained by the EO Officer.
- d. All records shall be maintained in accordance with NPR 1441.1, NASA Records Retention Schedules or the General Records Schedules issued by the National Archives and Records Administration for the federal government.

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date:	June 11, 2007
	Expiration Date:	June 11, 2011
Page 11 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

APPENDIX A – ACRONYMS

ADR	Alternative Dispute Resolution
EEOC	Equal Employment Opportunity Commission
EO	Equal Opportunity
MD	Management Directive
NPD	NASA Policy Directive
SPR	Stennis Procedural Requirements (directive)
SSC	Stennis Space Center

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Page 12 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

APPENDIX B – ADR PROGRAM ELECTION STATEMENT SAMPLE

JOHN C. STENNIS SPACE CENTER

ALTERNATIVE DISPUTE RESOLUTION PROGRAM ELECTION STATEMENT

Dear Aggrieved Individual:

Your written consent is required for participation in the voluntary Alternative Dispute Resolution (ADR) Program. The ADR process is limited to 90 days. If your complaint is not resolved through this process, it may be processed in accordance with the provisions of 29 CFR, Part 1614.

[] The SSC Alternative Dispute Resolution process has been fully explained to me.

[] Yes, I want to participate in the Alternative Dispute Resolution Program

I understand that by participating in this program, I am not waiving any rights for further processing of my complaint under 29 CFR, Part 1614.

[] No, I do not want to participate in the Alternative Dispute Resolution Program.

Aggrieved Individual's Signature

Date

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Page 13 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

APPENDIX C – ADR PROGRAM AGREEMENT TO MEDIATE STATEMENT SAMPLE

John C. Stennis Space Center Alternative Dispute Resolution Program Agreement to Mediate

This is an Agreement by the undersigned parties to submit to mediation certain issues arising from an informal complaint at the John C. Stennis Space Center. Both parties understand that mediation is a voluntary process, which may be terminated at any time within the designated 90-day period. In the event that a participant withdraws, the confidentiality provisions of this agreement remain in effect.

Consistent with 5 U.S.C. Section 571-584, we understand that mediation is a confidential process, and that the Mediator will not discuss the proceedings with anyone who was not present at the mediation, nor will the Mediator testify on behalf of any participant in the mediation or submit any type of report on the substance of this mediation, except as provided by law.

We agree not to discuss the mediation except with those who may need certain information to assist in implementing any resulting agreement.

The parties agree to make a good faith effort to negotiate with each other with the aid of the Mediator and to make full disclosure of all relevant information.

The parties understand that the Mediator is not acting as an advocate or attorney for either side. The aggrieved individual may be represented by counsel, if desired, and may allow his/her counsel to review this Agreement prior to signing it. It is agreed that any of the parties involved have the discretion to terminate mediation at any time if it is believed that a resolution cannot be reached.

Aggrieved Individual

Date

Settlement Official

Date

Mediator

Date

EO Officer

Date

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		
		Page 14 of 16

APPENDIX D – ADR PROGRAM SETTLEMENT STATEMENT SAMPLE

SAMPLE

NASA'S ALTERNATIVE DISPUTE RESOLUTION PROGRAM

Mediated Settlement Agreement in the Matter of
Janet Doe vs. NASA John C. Stennis Space Center

Sample Settlement Agreement

Some of the paragraphs given below may not be necessary or appropriate for all settlements. Paragraphs 6, 7, 8, and 10 are required by the Older Workers Benefit Protection Act when the Aggrieved Individual is 40 years old or older. The last sentence of paragraph 13 and paragraph 14 apply only when the Aggrieved Individual alleges discrimination under Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Age Discrimination in Employment Act, the Rehabilitation Act, or the Civil Rights Act of 1991.

SAMPLE SETTLEMENT AGREEMENT

1. This Settlement Agreement (hereinafter "Agreement") is entered into by and between XXXXXXXXXX (hereinafter "Aggrieved Individual") and the National Aeronautics and Space Administration (hereinafter "Agency" or "NASA") to make full and final settlement of the matters raised in Aggrieved Individual's informal EO complaint of _____.
2. To resolve the matters in dispute without further administrative processes, litigation, expense, and delay, the Aggrieved Individual and the Agency agree as follows:
 - a.
 - b.
3. This Agreement shall not constitute an admission of liability or fault on the part of NASA or its officers or employees.
4. This Agreement may be used as evidence in a subsequent proceeding in which either of the parties allege a material breach of this Agreement.
5. Aggrieved Individual is hereby notified that he/she has at least 21 days from the date of receipt of this Agreement to consider the terms and conditions of this Agreement and sign it.

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

6. Aggrieved Individual is hereby advised to consult with an attorney prior to executing this Agreement. In the event that Aggrieved Individual has retained counsel, Aggrieved Individual acknowledges that his/her attorney has reviewed and explained the provisions of this Agreement to him/her and that the Agency has provided sufficient time for this purpose.

7. By executing this Agreement, Aggrieved Individual acknowledges that he/she has knowingly and voluntarily waived rights or claims under the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621, et seq., in exchange for consideration in addition to anything of value to which Aggrieved Individual is already entitled.

8. By executing this Agreement, Aggrieved Individual acknowledges that he/she has entered into this Agreement voluntarily and that the Agency has not imposed any undue hardship, duress, or coercion in connection with the execution of this document.

9. Aggrieved Individual is hereby notified that the terms and conditions of this Agreement will become binding and enforceable 7 calendar days following the last signature date of this Agreement. Aggrieved Individual may revoke this Agreement in writing at any time prior to the expiration of this 7-day period.

10. This Agreement represents and expresses the entire agreement between NASA and Aggrieved Individual resolving all matters arising from EEOC complaints against the Agency and fully supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter hereof. If other promises, oral or written, have been made, they are not binding. This document cannot be altered, modified, withdrawn, rescinded, or supplemented in any manner after the date on which it becomes effective pursuant to the terms contained in paragraph 10 of this Agreement, unless mutually agreed in writing by all parties.

11. This Agreement shall be binding upon the Aggrieved Individual, as well as the Aggrieved Individual's heirs, assigns, representatives, proxies, guardians, or any other person or entity acting on behalf of, or at the behest of, Aggrieved Individual's heirs, assigns, representatives, proxies, or guardians.

12. The Aggrieved Individual expressly agrees not to use this Agreement and not to permit any other person to use this Agreement in any judicial or administrative proceeding as evidence of or to attempt to prove the existence of, discrimination/reprisal or other adverse action or prohibited personnel practice.

13. If the Aggrieved Individual believes that NASA has not complied with the terms of this Agreement, the Aggrieved Individual may request that the terms be specifically implemented, or alternatively, that the complaints be reinstated for further processing at the point processing closed, in accordance with the procedures set forth in 29 CFR § 1614.504. Any such request must be made within 30 calendar days of the date the Aggrieved Individual knew or should have

Stennis Procedural Requirements	SPR 2010.1	A
	<i>Number</i>	<i>Rev.</i>
	Effective Date: June 11, 2007	
	Expiration Date: June 11, 2007	
Page 16 of 16		
Responsible Office: AA00/Office of Diversity and Equal Opportunity		
SUBJECT: Alternative Dispute Resolution		

known of the noncompliance and must be forwarded to the ASSOCIATE ADMINISTRATOR FOR THE OFFICE OF EQUAL OPPORTUNITY PROGRAMS, CODE E, NASA HEADQUARTERS, WASHINGTON, DC 20546, with an explanation as to why he/she believes that the Agreement has not been carried out.

15. Each of the respective rights and obligations of the parties hereunder shall be deemed independent and may be enforced independently, irrespective of any other rights and obligations set forth herein.

In witness whereof, the Aggrieved Individual hereby executes this Agreement, acknowledging that its terms and conditions have been fully understood, that an adequate period of time has been afforded to allow consideration of said terms and conditions, and that an opportunity has been afforded to seek legal counsel and counsel has either been sought or knowingly declined by the Aggrieved Individual.

Aggrieved Individual

Date

Aggrieved Individual's Representative

Date

Responsible Management Official

Date

Settlement Official

Date